

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Phillip Harold Horswell,

Case No. 18-cv-0307 (WMW/DTS)

Petitioner,

**ORDER ADOPTING REPORT AND
RECOMMENDATION**

v.

State of Minnesota,

Respondent.

This matter is before the Court on the April 30, 2018 Report and Recommendation of United States Magistrate Judge David T. Schultz. (Dkt. 11.) No objections to the Report and Recommendation have been filed. In the absence of timely objections, this Court reviews a Report and Recommendation for clear error. *See* Fed. R. Civ. P. 72(b); *Grinder v. Gammon*, 73 F.3d 793, 795 (8th Cir. 1996) (per curiam). Having reviewed the Report and Recommendation, the Court finds no clear error.

Based on the Report and Recommendation and all the files, records and proceedings herein, **IT IS HEREBY ORDERED:**

1. The April 30, 2018 Report and Recommendation, (Dkt. 11), is **ADOPTED**;
2. Petitioner Phillip Harold Horswell's petition under 28 U.S.C. § 2254 for a writ of habeas corpus, (Dkt. 1), is **DENIED**;
3. This action is **DISMISSED WITHOUT PREJUDICE**; and

4. The Court declines to grant a Certificate of Appealability under 28 U.S.C. § 2253(c).

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: August 1, 2018

s/Wilhelmina M. Wright
Wilhelmina M. Wright
United States District Judge